

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ELIJAH BURKS,

1:20-cv-0881 (NLH)

Petitioner,

MEMORANDUM OPINION & ORDER

v.

UNITED STATES OF AMERICA,

Respondent.

APPEARANCES:

Elijah Burks
63232-050
Bennettsville
Federal Correctional Institution
Inmate Mail/Parcels
P.O. Box 52020
Bennettsville, SC 29512
Petitioner pro se

HILLMAN, District Judge

WHEREAS, on December 20, 2019, Petitioner Elijah Burks filed an application for leave to file a second or successive 28 U.S.C. § 2255 petition pursuant to 28 U.S.C. § 2244(b) in the United States Court of Appeals for the Third Circuit, see ECF No. 1-2; see also In re: Elijah Burks, No. 19-3922 (3d Cir. Dec. 20, 2019); and

WHEREAS, the Third Circuit dismissed the application on January 28, 2020 because Petitioner's first motion under § 2255 is still pending in this Court, see ECF No. 1-2; see also Burks

v. United States, No. 19-16331 (D.N.J. filed Aug. 5, 2019); and

WHEREAS, the Court had administratively terminated Civil Action No. 19-16331 because Petitioner did not submit the required certification that he was aware of the requirements that he must present all of his claims in a single § 2255 motion, see No. 19-16331 ECF No. 2; see also United States v. Miller, 197 F.3d 644 (3d Cir. 1999); and

WHEREAS, Petitioner submitted a memorandum of law containing the required Miller certification, see No. 19-16331 ECF No. 3; and

WHEREAS, the Court reopened Civil Action No. 19-16331 on January 28, 2020 and ordered the United States to answer the § 2255 motion, see No. 19-16331 ECF No. 5; and

WHEREAS, Petitioner's claims are now proceeding under Civil Action No. 19-16331, the Court will close this action to preserve Petitioner's original filing date and to avoid confusion. All further communication with the Court should reference Civil Action No. 19-16331; and

WHEREAS, the Court will instruct the Clerk to file Docket Entry 1 in Civil Action No. 19-16331 as an amended petition. A new order to answer will follow in that civil action;

THEREFORE, IT IS on this 29th day of January, 2020

ORDERED that the Clerk shall file Docket Entry 1 in Civil Action No. 19-16331 as a new docket entry captioned "Second

Amended MOTION to Vacate, Set Aside or Correct Sentence (2255)
In Re to Criminal Case file 11-627, filed by ELIJAH BURKS"; and
it is further

ORDERED that the Clerk shall file a copy of this Order in
Civil Action No. 19-16331 for informational purposes only; and
it is finally

ORDERED that the Clerk shall serve a copy of this Order
upon Petitioner by regular mail and mark this case closed.

At Camden, New Jersey

s/ Noel L. Hillman
NOEL L. HILLMAN, U.S.D.J.